REPORT OF THE
CHIEF ELECTORAL OFFICER OF YUKON
ON ELECTION-RELATED MATTERS
2008

The Report of the
Chief Electoral Officer of Yukon
On Election-related Matters

November 2008

November 27, 2008

Hon. Ted Staffen
Speaker
Legislative Assembly of Yukon
Whitehorse, Yukon

Dear Mr. Staffen:

I am pleased to provide the chief electoral officer's report on election-related matters. This report is prepared pursuant to section 317 of the *Elections Act* which states:

> "The chief electoral officer may, at any time, deliver to the Speaker of the Legislative Assembly a report setting out
>
> (a) any matter that has arisen in connection with the duties of the chief electoral officer that the chief electoral officer considers ought to be brought to the attention of the Legislative Assembly, or
>
> (b) any amendments that, in the opinion of the chief electoral officer, are needed to improve the administration of elections under this Act."

Sincerely,

Jo-Ann Waugh
Chief Electoral Officer

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Report of the Chief Electoral Officer of Yukon on Election Matters

Introduction

This report includes recommendations concerning the *Elections Act*. These recommendations have to do with issues that occurred during the conduct of the 2006 general election and matters which will improve the administrative conduct of elections. Some of these recommendations for amendments to the Act are to modernize the legislation by recognizing that elections are no longer administered at a political level. All election officers, for example, are recruited and appointed without partisan input or approval.

At a meeting held April 4, 2008, most of these proposals were presented to representatives of the registered political parties for comment and input. The representatives were also invited to bring forward any concerns they may have regarding other issues relating to the conduct of elections of members to the Yukon Legislative Assembly.

Enumeration and Lists of Electors

History of Enumeration at Yukon Elections

In 1978, the first election of politically-endorsed candidates to the Legislative Assembly took place and the Yukon had new election legislation. Previous elections had been administered by the chief electoral officer for Canada. Elections of members would now be administered by an Elections Board made up of three Yukon residents (subsequent amendments to the Act provided for an administrative structure similar to other Canadian jurisdictions with the appointment of a chief electoral officer). Importantly, enumeration and the preparation of the lists of electors would take place over 26 days.

Before the 1985 general election, the *Elections Act* was amended and the election period was reduced from 45 days to 31 days (issue of the writs to polling day) and enumeration was cut in half to 13 days. At that time, people lived closer together; in the communities, distances between residences were not as great. As well, rural subdivision development within the City of Whitehorse was just beginning and enumerators did not have the same distances to cover in a tight time frame. It did not take as long to enumerate qualified electors in 1985. At that election, 12,823 electors were enumerated. During the 2002 and 2006 general elections, respectively 16, 801 and16,101 electors were enumerated in the same time period as the 1985 election.

Enumeration and Lists of Electors, 2006

There were problems at enumeration that were noted and remarked on by candidates, campaign managers and media. While some complaints were valid, often the situations were not unusual and the Act provides remedies for these situations. For example, it was widely reported that many streets in Whitehorse electoral districts were missed at enumeration. While the number of electors

missed was not high, this very situation has happened previously. Returning officers are responsible for ensuring that the names of those electors are obtained and added to the lists immediately at the start of revision.

Elections are usually called with no advance notice of the date for polling day. The election period (31 days from the issue of the writs to polling day) is established by legislation. Territorial-wide enumeration and preparation of the preliminary lists of electors must take place in the first 13 days following the issue of the writs of election. On notice of an election, returning officers must complete recruitment of enumerators and train them. It is difficult for people to commit to being appointed as enumerators ahead of an election call when the returning officers cannot say what the exact dates will be.

The procedure of going from door to door to collect names of qualified electors seems simple but in September 2006 enumeration was complicated by unusually fair fall weather. This meant that people were hunting, in the field working at mining and construction sites, and still going on weekend getaways. People need to be at home to be enumerated.

Realistically, enumeration, that is house-to-house visits, does not take place for 13 days after the issue of the writs as the lists need to be prepared and submitted to the returning officers not later than that day. Returning officers are then responsible for proofing the lists, having them reproduced and delivered to candidates by day 17. Candidates must have the lists before the start of revision on day 18. There is no argument that a candidate needs these lists longer than the day before revision begins. The current election period is attached as Appendix I.

In some electoral districts, candidates used lists prepared at the 2002 general election to compare against the lists that they were provided in 2006. This created problems as it meant that deceased electors and other disqualified electors were added to the lists at revision. The lists of electors are the single-most important document used during an election and while it is important that the lists are current and accurate, it is also important that candidates and campaign officials only assist eligible electors to be added to the lists.

As well, it is becoming more difficult to find the number of people needed to enumerate. The traditional pool of labour- housewives- no longer exists.

Also, with the ongoing development of pockets of country-residential lots, it takes longer to get from one residence to another so enumeration does, in fact, take longer.

In addition, before the 2006 general election, the chief electoral officer had entered into a cost-recovery agreement with Elections Canada to obtain data for the national register of electors. For enumerators this meant they were to collect additional information including full names, location and mailing addresses, birthdates and gender for each elector. The campaign managers for the registered political parties were advised of this agreement at the start of the election and that the information collected by enumerators should be obtained

from electors by campaign workers if they were adding the electors' names at revision.

Recommendation 1- Enumeration and Preliminary Lists of Electors

It is recommended that the Act be amended to permit the chief electoral officer to determine the need for the enumeration of qualified electors and the preparation of the lists of electors before the writs of election are issued for a general election.

It is recommended that the chief electoral officer be able to provide for the enumeration of qualified electors not earlier than 180 days before the anticipated dissolution of the Legislative Assembly.

It is recommended:

That the preliminary lists of electors, prepared following the enumeration of qualified electors and before the writs of election are issued for a general election, be available immediately to registered political parties, and

That these lists be available to candidates immediately after they have filed their nomination papers.

It is recommended:

That, if the chief electoral officer has directed that enumeration and the preparation of the preliminary lists of electors take place before the writs of election are issued for a general election, names of qualified electors may be added to the preliminary lists:

- at the returning office starting on day 4 through day 14 during office hours, and
- on days 18 and 19 between the hours of 9:00 a.m. and 9:00 p.m., and

That revision ends on day 19 at 9:00 p.m.

The proposed election period is attached as Appendix II.

It is recommended that returning officers deliver to candidates the names of those electors added to the lists during office hours not later than day 16.

It is recommended that if enumeration has not been completed before the issue of the writs for a general election or, if one of the registered political parties, represented in the Legislative Assembly does not have a majority of members, and a general election is called earlier than anticipated:

That the chief electoral officer provide for enumeration to continue at the issue of the writs of election;

That the preliminary lists of electors be delivered to candidates and registered political parties not later than day 17; and,

That revision continues to take place on days 18 and 19 between 9:00 a.m. and 9:00 p.m. and that qualified electors' names be added in person or by representative.

If lists are prepared outside the election period, lists will not be as current as lists prepared following the issue of the writs. Names of electors who have left Yukon or moved to another electoral district or within an electoral district, or who are deceased will be on lists prepare ahead of the election period. Candidates and registered political parties will need to be better informed in order to confirm names on the lists and add electors who are not on the lists. Too, the public relations and communications roles that enumerators play during enumeration, at the start of an election will be lost. Enumerators usually provide the first information about an election as they go house-to-house collecting names and addresses of eligible electors.

Further, there will be additional costs to communicate with electors when the writs are issued. Currently electors are advised at enumeration where they vote, what the dates, times and locations are for revision, advance polls and special revision. This information will not be known, if enumeration takes place outside the election period. Electors will need to be informed of dates, times and locations after the writs are issued. At federal and provincial elections, electors are advised by voter information cards which are mailed directly to electors. It is noted that a concern was expressed during the debate concerning voter identification, which took place on October 29, 2008, in the Legislative Assembly, that voter information mailed to electors was often thrown, unread, into the garbage.

Finally, it is noted that new electoral district boundaries will not be in effect until the dissolution of the 32nd Legislature. The *Elections Act* directs returning officers to prepare lists of electors for the electoral districts, which are currently in place. It may be confusing for electors to be in one electoral district at the time of enumeration and subsequently be informed that they are in a different one at the issue of the writs of election.

It is recommended, therefore, that amendments to the Act with provision for enumeration between elections should state that the first enumeration outside the election period may take place following the next general election and before the dissolution of the 33rd Legislature.

Swearing-in at the Polls

Yukon and Quebec are the only two Canadian jurisdictions which do not permit swearing-in at the polls on polling day. Currently Yukon electors have to be on the lists in order to vote. If they are missed at enumeration, there are two further opportunities for electors to add their names to the lists of electors. The first opportunity under the *Elections Act* provides for qualified electors to add their names at revision, which takes place 18 and 19 days after the issue of the writs. At that time, people can be added in person or by representative. The last opportunity to add a name is in person on day 28 (three days before polling day) at the returning office. Unfortunately, many qualified electors cannot be represented or present to add their names on either occasion.

Recommendation 2 – Swearing-in at the Polls

It is recommended:

That a qualified elector whose name is not on the official list of electors on polling day at a polling station be permitted to vote:

- by taking a declaration of qualification while providing proof of name and address in the electoral district,
- by declaring that their name does not appear on a list of electors prepared for the election, and
- by being vouched for in a declaration:
  - taken by an elector who has not vouched for any other elector and whose name is on the list of electors for the same polling division, and
  - that confirms the name, address and qualification of the elector to be sworn in.

Candidates' representatives should also be able to witness electors being sworn in.

Electors who are voting in hospitals and correctional centres will not be able to be sworn in.

Electors who are on the lists will be able to vote at the advance polls, by special ballot and by proxy.

Sample declarations for swearing-in and vouching are attached as Appendix III.

Proof of Identification and Residence

If swearing-in is permitted at the polls on polling day, proof of identification and place of residency must also be required. Only electors who are being sworn in will need proof of identification.

All electors at elections administered by Elections Canada pursuant to the *Canada Elections Act* must provide identification in order to vote even though their names are contained in the Register of Electors. The members of the Legislative Assembly expressed their concerns during a debate in the Legislative Assembly on October 29, 2008, regarding proof of identification for all voters at the most recent federal election held October 14, 2008. The concern was that electors were disenfranchised, if they did not have appropriate identification.

It should also be noted that at a federal election it is not necessary to prove length of residence in Yukon. All electors at an election of members to the Legislative Assembly must have lived in Yukon for 12 months on polling day.

At Yukon elections, some people who want to vote but whose names are not on the lists often reside at locations that do not have civic addresses. It will be necessary to have identification that is sufficient to locate the residence of the

elector who is being sworn in, as well as provide proof of the elector's name and qualifications.

Section 234 does not permit any election officer or candidates' agents to request identification of any electors to prove that they have the right to vote at a polling station. If the recommendation to permit swearing-in is accepted, this section will require amendment to allow for an elector, who is not on the list of electors and being sworn in, to take a declaration to confirm that the elector is qualified by age, citizenship, length and location of residence.

Examples of proof of identification and place of residency are attached as Appendix IV.

Candidates' Nomination Deposits and Refunds

Returning officers receive these deposits (currently $200.00) and forward them to the Elections Office. Receipts are issued to the returning officers as proof of these deposits received at the Elections Office and the cash, postal or bank money orders made out to the Yukon Consolidated Revenue Fund are forwarded to the Department of Finance. At the conclusion of the election, the refunds are calculated and a request is sent to Finance to issue these refunds. In order to obtain a refund a candidate must receive 25 per cent of the votes obtained by the candidate who received the most votes. It is an expensive and time-consuming exercise as most candidates are entitled to refunds. The following chart contains information for five general elections only but is representative of general elections before 1992 and by-elections since 1978.

Statistics on Refunds – 1992-2006
2006 – 52 of 58 candidates received refunds
2002 – 55 of 60 candidates received refunds
2000 - 47 of 49 candidates received refunds
1996 - 46 of 54 candidates received refunds
1992 – 47of 52 candidates received refunds

Often registered political parties have financed their candidates' deposits but the refunds are given to the candidates, as required by the *Elections Act*. The parties sometimes have a difficult time in recovering these refunds from the candidates which have been endorsed by the political parties.

Manitoba and Quebec do not require nomination deposits. Canada ($1,000.00 deposit) refunds deposits on compliance with filing financial documents. Refunds used to be linked to a percentage of votes received but a court decision against Canada overturned this. Other jurisdictions link refunds to financial filings, which

are further linked to public funding of candidates. Yukon does not financially support candidates or registered political parties.

The Green Party (Ontario) sued successfully in 2007 to have deposits returned to candidates who did not get more than ten per cent of the vote at the 2003 general election. The court decision states clearly that a deposit does not discourage frivolous candidates and may in fact discourage serious candidates, if the argument is that deposits discourage frivolous candidates. Elections Ontario, after legal advice, further returned deposits to candidates at the 2007 general election and for by-elections held since 2001.

The Green Party (Prince Edward Island) has asked Prince Edward Island to drop the provision for nomination deposits and will pursue this in the courts if the province has not responded to the party's request by June 2, 2008.

Recommendation 3 – Candidates' Deposits and Refunds

It is recommended that candidates not be required to submit nomination deposits with the nomination paper and that paragraph 115(1)(i) be revoked.

Members of the Legislative Assembly may wish to consider the requirement for deposits and, as in other jurisdictions, link refunds to compliance with election financing returns rather than the percentage of the votes received by the candidate with the greatest number of votes. There is, however, provision for compliance agreements in the Act to ensure that documents are filed as required.

Endorsement of Candidates

The Elections Act states in section 48(1):

"Where a candidate has the endorsement of a registered political party and wishes to have the name of the party shown on the applicable election documents, a statement in writing, signed by the leader of the party or a representative designated by the leader under subsection (2) and stating the name of the party and that the candidate is endorsed by the party, shall be filed with the returning officer at the time the nomination paper is filed."

At the 2006 general election, campaign officials decided to fax this document to returning offices. This was contrary to the direction provided in the Act. It is suggested that each registered political party design a template for the letter of endorsement, which at an election will only require the name of a candidate and the date to be inserted. This document can then be available to prospective candidates immediately the writs are issued. The letter of endorsement will still be required to be filed at the same time as the nomination paper. It is recognized that there may be unusual circumstances in which the letter of endorsement

cannot be filed with the nomination paper and the Act should provide for this contingency.

Recommendation 4 – Endorsement of Candidates

It is recommended:

That a letter of endorsement may be transmitted separately with the prior permission of the chief electoral officer at a different time than the nomination paper is filed with the returning officer before the close of nominations at 2:00 p.m. on nomination day. The request must be in writing from the leader of the registered political party or the leader's designate as provided for in section 48(2) of the Act, and

That section 115(1) be amended to include the following:

"(j) if the candidate is endorsed by a registered political party, it is accompanied by a letter of endorsement referred to in section 48(1)."

Appointments of Returning Officers

The Act requires that returning officers be appointed by Commissioner in Executive Council (OICs) after consultation with the chief electoral officer (section 27).

The current practice is that the chief electoral officer recruits and recommends a returning officer for appointment. Returning officers are not political appointments and names of possible appointees are not sought from members of the Legislative Assembly or registered political parties. The function of a returning officer is to administer and manage the electoral process in an electoral district in a nonpartisan manner and the returning officer only reports to the chief electoral officer.

Canadian jurisdictions that give the chief electoral officer the responsibility for appointment of returning officers are British Columbia, Canada, Manitoba, Northwest Territories, Nunavut, Newfoundland and Labrador, Saskatchewan and Quebec. The chief electoral officer of Alberta has also recommended that returning officers be appointed by the chief electoral officer.

Recommendation 5 – Appointments of Returning Officers

It is recommended that returning officers be appointed by the chief electoral officer on a merit-based system after the vacancies in electoral districts have been publicly advertised. The names and addresses of appointees will continue to be published at the beginning of the election period as required by section 32 of the *Elections Act*.

It is recommended that after new electoral district boundaries are established, under the *Electoral District Boundaries Act,* that returning officers' positions will be considered vacant, if current appointees refuse new appointments. Only vacancies for electoral districts for which there are no returning officers will be advertised.

Special Ballots and Proxy Voting

Special ballots were used for the first time at the 1992 general election. Voting by special ballot was for electors who were housebound, electors who were away from their electoral districts for their ordinary work or occupations and for those electors who were attending school in Yukon but the institution was not situated in their electoral districts.

The *Elections Act* (2000) expanded the use of special ballots for electors in transition homes. The Act was further amended later to also permit those electors who would be absent during the advance polls or on polling day to also vote by special ballots.

Special ballots allowed electors to mark their own ballots rather than turn their votes over to proxy voters. It is of note that the expected increase in the use of special ballots and a decline in the use of proxies did not immediately happen.

No. of Electors Voting by:		
	Proxy	**Special Ballot**
1992	385	94
1996	424	202
2000	494	187
2002	579	145
2006	523	275

In 2006, the number of proxies declined slightly and there was an increase in the number of special ballots. Special ballots are an important alternate method of voting and that as this method becomes better known, it can be used by a larger number of absentee electors. While advance polls are convenient for some electors, the dates are still fixed and do not give electors the flexibility to vote at their own convenience, whereas special ballots can be used at the elector's convenience. Also, electors can mark their own ballot papers rather than handing their votes to proxy voters.

It has been noted, however, that the ability to vote by special ballot is not widely known or communicated. The Elections Office will develop a communications plan that includes more information about voting by special ballot before the next general election.

There is a problem with the distribution of these ballot papers, if the electors are not voting in person at the returning office. The Act states in section 105(2):

"The chief electoral officer shall direct returning officers on how to

(a) distribute special ballot papers,

(b) receive and record the receipt of special ballot papers, ...

in order to ensure that voting by special ballot is administered in accordance with the principles of the Act."

When an elector applies for a special ballot, the elector names the person who should deliver the ballot paper and the envelopes to the elector. This person can be, for example, the returning officer, a relative, a friend, a care-giver.

There has been an increase in the number of special ballots delivered by candidates or representatives of candidates. It was never intended that ballot papers would be delivered or returned to the returning office by political participants. There are reasons for this. The processing of special ballots is a legal one, under the direction of the chief electoral officer. Candidates and their representatives do not receive direction regarding the distribution or receipt of these ballot papers. In addition, there is a problem with perception. Candidates should not want to be perceived to be directly influencing how a ballot paper is marked, particularly in the case of electors who are housebound and should be concerned about the perception of delivering a large number of ballot papers to one location.

Recommendation 6 – Distribution of Special Ballots

It is recommended that the Act state that candidates or representatives of candidates do not deliver special ballots, or return marked ones, to electors who have applied to vote by special ballot.

Prescribed Forms, Schedules, Documents and Envelopes

Section 422 of the Act states:

"The Commissioner in Executive Council, upon the recommendation of the chief electoral officer, may from time to time, make regulations providing for any matter which is required by this Act to be prescribed."

There are over 65 forms and documents prescribed by the *Elections Act*. Most of these forms are administrative in nature. For example, there are forms to appoint election officials, to receipt ballot papers, to request a special ballot and envelopes, in which to put a ballot paper. To amend these forms or to create forms, orders-in-council are required. If the following recommendation is accepted, there are five forms that should continue to be prescribed but all other forms should be established and revised by the chief electoral officer. The forms which should continue to be in regulation are the Writ of Election, the Proclamation, the Nomination Paper, the Ballot Paper and the Return to the Writ, which are shown in Appendix V.

Chief electoral officers in the following jurisdictions prescribe the forms required by their legislation: British Columbia, Canada, Manitoba, Northwest Territories, Nunavut, Saskatchewan, for example, except for the writ, proclamation, ballot paper. There are other exceptions, including financial forms and tariffs of fees established to pay election officers, which are prescribed by order-in-council.

In Manitoba and Canada, the chief electoral officers are required to gazette the forms and other documents established by them.

Recommendation 7 – Prescribed Forms, Schedules, Documents and Envelopes

It is recommended that the forms and documents required for the conduct of elections be established by the chief electoral officer and that the Writ of Election, the Proclamation, the Nomination Paper, the Ballot Paper and the Return to the Writ continue to be prescribed by the Commissioner in Executive Council.

It is further recommended that the chief electoral officer have proposed regulations reviewed by legislative counsel to ensure that the regulations meet but do not exceed the requirements of the *Elections Act*.

Appointments of Polling Officials

Deputy Returning Officers

The Act requires a returning officer to appoint one deputy returning officer for each polling station in the electoral district (section 180). Returning officers have indicated that they would like the ability to train substitute deputy returning officers at the same time as those who will be appointed to allow for illnesses, no-shows, etc. on polling day.

Recommendation 8 – Appointment of Deputy Returning Officers

It is recommended:

That the following subsection be included in the Act:

180(4) "Despite subsection 180(1), a returning officer may recruit and provide training to additional deputy returning officers who will be on call to attend a polling station in the event that a deputy returning officer is not available.", and

That a new subsection, 191(2), be included and state:

"Despite subsection 191(1), the deputy returning officer who is called to act as the deputy returning officer pursuant to 180(4) shall not appoint a poll clerk."

Information and Resource Officer

A new position is required to provide information and support to deputy returning officers appointed to polling stations in polling places at which there are four or more polling stations. This person will also be responsible for swearing in those electors who are not on the lists. In a polling place at peak voting times, this should ensure that long line-ups do not form at polling stations and electors already on the lists will be processed in a timely manner.

Recommendation 9 – Information and Resource Officer

It is recommended that an election officer be appointed in polling places with four or more polling stations to provide support to deputy returning officers and to take the declarations of electors who are sworn in to ensure that electors, who are on the official lists, are not inconvenienced at their polling stations. See also Recommendation 2 – Swearing-in at the Polls.

Offences

At previous elections there have been offences committed under the *Elections Act*. The provisions of the Act regarding offences are such that it has been impossible for charges to be made and prosecuted. In fact, there has been only one successful prosecution since 1978.

The Supreme Court of Canada has established definitions of offences:

1. *mens rea* (criminal intent, liability) offences require intent or knowledge which must be proved by the prosecution or by additional evidence; are criminal; contain words such as "fraudulently", "knowingly", "corruptly"

   Sections 333, 335, 336 and 345 of the Act are *mens rea* offences.

2. strict liability offences do not require the prosecution to prove *mens rea*; the defense must show reasonable care was taken not to commit the offence

3. absolute liability offences are those for which proof of the act would mean a guilty verdict.

Appendix VI includes examples of other legislation which provide for strict liability offences.

Sections 343, 344 and 348 are provisions for which a peace officer should be responsible. Other offences sections need to be reworded.

Recommendation 10 – Offences

It is recommended that all offences provisions be reviewed.

It is recommended that sections 333, 335, 336 and 345 be amended by removing language that implies a degree of knowledge, acquiescence or assent to, authorization or participation in the act.

It is recommended that sections 343, 344 and 348 concerning peace and good order, arrests on complaint of an election official regarding section 343 and disorderly conduct at a public meeting be revoked.

It is recommended that:

Section 337 be amended by deleting references to "badge" and substituting for it the word "identification" and deleting the expression "without authority".

Section 338 be revoked and the following substituted for it:

"A candidate, a candidate's official agent or a person authorized by a candidate as a campaign worker shall have free access to any building having more than one dwelling unit and any person who obstructs or interferes with such access is guilty of an offence."

Subsection 341(2)(a) and (c) be amended by deleting the phrase "for whom" and substituting for it "for which candidate".

Section 349(2) be amended by including the phrase "of the election officer" after the phrase "It shall be considered to be a failure".

Address Data Base

To increase the uptake at enumeration, an address data base is proposed. Enumerators will be able to obtain information more efficiently by knowing the locations of electors ahead of enumeration. As well, the chief electoral officer has an ongoing agreement with Elections Canada to provide enumeration data to that agency in order to provide current information on Yukon electors at federal

elections. There is also the potential sharing of electoral information for municipal elections.

The initial research will determine the benefit of such a data base for Yukon elections, the cost of implementing and maintaining it and the period of time which this development should take.

Any final proposal will require Cabinet approval to proceed.

Recommendation 11 - Address Data Base

It is recommended that in the next fiscal year initial research begin on establishing a Yukon-wide address data base. The purpose of the address data base will provide accurate information for the enumeration of electors to ensure enumeration is complete.

Administrative Name and Logo of the Chief Electoral Officer

A number of Canadian jurisdictions use "Elections (name)" to distinguish their offices and usually there are logos that contain these names. Some jurisdictions have legislated this use:

'5(1.1) The Office of the Chief Electoral Officer may operate under the name "Elections Alberta".' *Election Act* (Alberta)

'5(3.,01) The office of the Chief Electoral Officer shall be known as "Elections New Brunswick or Elections N.B".' *Elections Act* (New Brunswick)

'12 The Office of the Chief Electoral Officer is established and may be operated under the name "Elections NWT".' *Elections and Plebiscite Act* (Northwest Territories)

'188(6) The Chief Electoral Officer may use the term "Elections Nunavut" to refer to the Office of the Chief Electoral Officer and may adopt a suitable logo for that purpose.' *Nunavut Elections Act*

It should be noted that the chief electoral officer does not use the Yukon word mark on any documents or in any communications. "Elections Yukon" has been used since 1992 and the current logo is the second logo used for Yukon elections since 1978.

Recommendation 12 – Administrative Name and Logo of the Chief Electoral Officer

It is recommended that the *Elections Act* be amended to include a provision for the name "Elections Yukon", alone or incorporated in a logo, to be used by the

chief electoral officer to administer the office of the chief electoral officer and that the name or logo refer to the office of the chief electoral officer.

Other Election-related Matters

Copy of List Kept by Enumerator

Section 94 of the Act requires enumerators to keep a copy of the preliminary list of electors prepared by them at enumeration. There is no reason why enumerators, who prepare these lists from information recorded in record books during their house-to-house visits, should have a copy of the list. The record books are given to the returning officer, along with the original and one copy of the list, at the conclusion of enumeration and it is unlikely that the information will be lost. There is no requirement for the enumerators to return the list they have kept or to arrange for the list to be destroyed.

Recommendation 13 – Copy of List Kept by Enumerator

It is recommended that section 94 requiring an enumerator to keep a copy of the preliminary list of electors be revoked.

Deputy Returning Officer Obtains Ballot Box

Section 174 provides for a deputy returning officer to obtain a ballot box if the returning officer does not do so. This is unlikely given that deputy returning officers receive all their supplies for an election, including ballot papers, poll book and other documents, at the conclusion of their training, and not later than two days before polling day, as required by section 186.

Recommendation 14 - Deputy Returning Officer Obtains Ballot Box

It is recommended that section 174 directing a deputy returning officer to obtain a ballot box be revoked and the reference to this section in section 334 be removed.

Time-off for Voting

Yukon is one of only four jurisdictions which have four consecutive hours for employees to vote. The other three are British Columbia, Newfoundland and Labrador, and Quebec. Except for Nunavut (two hours) and Prince Edward Island (one hour), employees in the remaining jurisdictions, including Canada, have three hours.

Three hours seems sufficient considering other options Yukon electors have to cast a ballot other than on polling day. Electors on the list can also vote in person by special ballot at the returning office or at the advance poll.

Recommendation 15 - Time-off for Voting

It is recommended that subsection 309(1) be amended to permit employees to have three consecutive hours for voting on polling day.

Electoral District Boundaries Commissions

Delivery of Interim and Final Reports

Subsections 415(4) and 417(3) require the Electoral District Boundaries Commission's interim and final reports to be submitted to the clerk of the Legislative Assembly if the office of the Speaker is vacant. The Speaker's availability is a more likely to occur than to have the office vacant.

Recommendation 16 - Delivery of Interim and Final Reports

It is recommended that subsections 415(4) and 417(3) be amended to read as follows:

"415(4) The interim report shall be delivered to:

(a) the Speaker,

(b) the Deputy Speaker in the absence of the Speaker, or if the office of the Speaker is vacant, or

(c) the Clerk of the Legislative Assembly who shall comply with subsection (3), if the Speaker and Deputy Speaker are unavailable to receive the report."

"417(3) The final report shall be delivered to:

(a) the Speaker,

(b) the Deputy Speaker in the absence of the Speaker, or if the office of the Speaker is vacant, or

(c) the Clerk of the Legislative Assembly who shall comply with subsection (3), if the Speaker and Deputy Speaker are unavailable to receive the report."

Ballot Boxes and Supplies

Section 420 of the Act states that "ballot boxes, ballot papers, envelopes and marking instruments procured for or used at any election shall be the property of the Crown". This is an archaic provision in that it does not include all materials that are prepared for an election and the reason for specifying only the aforementioned items is not stated.

Recommendation 17 - Ballot Boxes and Supplies

It is recommended that section 420 regarding election materials as property of the Crown be revoked.

SUMMARY OF RECOMMENDATIONS

Recommendation 1- Enumeration and Preliminary Lists of Electors

It is recommended that the Act be amended to permit the chief electoral officer to determine the need for the enumeration of qualified electors and the preparation of the lists of electors before the writs of election are issued for a general election.

It is recommended that the chief electoral officer be able to provide for the enumeration of qualified electors not earlier than 180 days before the anticipated dissolution of the Legislative Assembly.

It is recommended:

That the preliminary lists of electors, prepared following the enumeration of qualified electors and before the writs of election are issued for a general election, be available immediately to registered political parties, and

That these lists be available to candidates immediately after they have filed their nomination papers.

It is recommended:

That, if the chief electoral officer has directed that enumeration and the preparation of the preliminary lists of electors take place before the writs of election are issued for a general election, names of qualified electors may be added to the preliminary lists:

- at the returning office starting on day 4 through day 14 during office hours, and
- on days 18 and 19 between the hours of 9:00 a.m. and 9:00 p.m., and

That revision ends on day 19 at 9:00 p.m.

It is recommended that returning officers deliver to candidates the names of those electors added to the lists during office hours not later than day 16.

It is recommended that if enumeration has not been completed before the issue of the writs for a general election or, if one of the registered political parties, represented in the Legislative Assembly does not have a majority of members, and a general election is called earlier than anticipated:

That the chief electoral officer provide for enumeration to continue at the issue of the writs of election;

That the preliminary lists of electors be delivered to candidates and registered political parties not later than day 17; and,

That revision continues to take place on days 18 and 19 between 9:00 a.m. and 9:00 p.m. and that qualified electors' names be added in person or by representative.

It is recommended, therefore, that amendments to the Act with provision for enumeration between elections should state that the first enumeration outside the election period may take place following the next general election and before the dissolution of the 33rd Legislature.

Recommendation 2 – Swearing-in at the Polls

It is recommended:

That a qualified elector whose name is not on the official list of electors on polling day at a polling station be permitted to vote:

- by taking a declaration of qualification while providing proof of name and address in the electoral district,
- by declaring that their name does not appear on a list of electors prepared for the election, and
- by being vouched for in a declaration:
  - taken by an elector who has not vouched for any other elector and whose name is on the list of electors for the same polling division, and
  - that confirms the name, address and qualification of the elector to be sworn in.

Recommendation 3 – Candidates' Deposits and Refunds

It is recommended that candidates not be required to submit nomination deposits with the nomination paper and that paragraph 115(1)(i) be revoked.

Recommendation 4 – Endorsement of Candidates

It is recommended:

That a letter of endorsement may be transmitted separately with the prior permission of the chief electoral officer at a different time than the nomination paper is filed with the returning officer before the close of nominations at 2:00 p.m. on nomination day. The request must be in writing from the leader of the registered political party or the leader's designate as provided for in section 48(2) of the Act, and

That section 115(1) be amended to include the following:

"(j) if the candidate is endorsed by a registered political party, it is accompanied by a letter of endorsement referred to in section 48(1)."

Recommendation 5 – Appointments of Returning Officers

It is recommended that returning officers be appointed by the chief electoral officer on a merit-based system after the vacancies in electoral districts have been publicly advertised. The names and addresses of appointees will continue

to be published at the beginning of the election period as required by section 32 of the *Elections Act*.

It is recommended that after new electoral district boundaries are established, under the *Electoral District Boundaries Act,* that returning officers' positions will be considered vacant, if current appointees refuse new appointments. Only vacancies for electoral districts for which there are no returning officers will be advertised.

Recommendation 6 – Distribution of Special Ballots

It is recommended that the Act state that candidates or representatives of candidates do not deliver special ballots, or return marked ones, to electors who have applied to vote by special ballot.

Recommendation 7 – Prescribed Forms, Schedules, Documents and Envelopes

It is recommended that the forms and documents required for the conduct of elections be established by the chief electoral officer and that the Writ of Election, the Proclamation, the Nomination Paper, the Ballot Paper and the Return to the Writ continue to be prescribed by the Commissioner in Executive Council.

It is further recommended that the chief electoral officer have proposed regulations reviewed by legislative counsel to ensure that the regulations meet but do not exceed the requirements of the *Elections Act*.

Recommendation 8 – Appointment of Deputy Returning Officers

It is recommended:

That the following subsection be included in the Act:

180(4) "Despite subsection 180(1), a returning officer may recruit and provide training to additional deputy returning officers who will be on call to attend a polling station in the event that a deputy returning officer is not available.", and

That a new subsection, 191(2), be included and state:

"Despite subsection 191(1), the deputy returning officer who is called to act as the deputy returning officer pursuant to 180(4) shall not appoint a poll clerk."

Recommendation 9 – Information and Resource Officer

It is recommended that an election officer be appointed in polling places with four or more polling stations to provide support to deputy returning officers and to take the declarations of electors who are sworn in to ensure that electors, who are on the official lists, are not inconvenienced at their polling stations. See also Recommendation 2 – Swearing-in at the Polls.

Recommendation 10 – Offences

It is recommended that all offences provisions be reviewed.

It is recommended that sections 333, 335, 336 and 345 be amended by removing language that implies a degree of knowledge, acquiescence or assent to, authorization or participation in the act.

It is recommended that sections 343, 344 and 348 concerning peace and good order, arrests on complaint of an election official regarding section 343 and disorderly conduct at a public meeting be revoked.

It is recommended that:

Section 337 be amended by deleting references to "badge" and substituting for it the word "identification" and deleting the expression "without authority".

Section 338 be revoked and the following substituted for it:

"A candidate, a candidate's official agent or a person authorized by a candidate as a campaign worker shall have free access to any building having more than one dwelling unit and any person who obstructs or interferes with such access is guilty of an offence."

Subsection 341(2)(a) and (c) be amended by deleting the phrase "for whom" and substituting for it "for which candidate".

Section 349(2) be amended by including the phrase "of the election officer" after the phrase "It shall be considered to be a failure".

Recommendation 11 - Address Data Base

It is recommended that in the next fiscal year initial research begin on establishing a Yukon-wide address data base. The purpose of the address data base will provide accurate information for the enumeration of electors to ensure enumeration is complete.

Recommendation 12 – Administrative Name and Logo of the Chief Electoral Officer

It is recommended that the *Elections Act* be amended to include a provision for the name "Elections Yukon", alone or incorporated in a logo, to be used by the chief electoral officer to administer the office of the chief electoral officer and that the name or logo refer to the office of the chief electoral officer.

Recommendation 13 – Copy of List Kept by Enumerator

It is recommended that section 94 requiring an enumerator to keep a copy of the preliminary list of electors be revoked.

Recommendation 14 - Deputy Returning Officer Obtains Ballot Box

It is recommended that section 174 directing a deputy returning officer to obtain a ballot box be revoked and the reference to this section in section 334 be removed.

Recommendation 15 - Time-off for Voting

It is recommended that subsection 309(1) be amended to permit employees to have three consecutive hours for voting on polling day.

Recommendation 16 - Delivery of Interim and Final Reports

It is recommended that subsections 415(4) and 417(3) be amended to read as follows:

"415(4) The interim report shall be delivered to:

(a) the Speaker,

(b) the Deputy Speaker in the absence of the Speaker, or if the office of the Speaker is vacant, or

(c) the Clerk of the Legislative Assembly who shall comply with subsection (3), if the Speaker and Deputy Speaker are unavailable to receive the report."

"417(3) The final report shall be delivered to:

(a) the Speaker,

(b) the Deputy Speaker in the absence of the Speaker, or if the office of the Speaker is vacant, or

(c) the Clerk of the Legislative Assembly who shall comply with subsection (3), if the Speaker and Deputy Speaker are unavailable to receive the report."

Recommendation 17 - Ballot Boxes and Supplies

It is recommended that section 420 regarding election materials as property of the Crown be revoked.

ELECTION PERIOD

DAY	ACTIVITY	TIME
0 - Friday	Issue of the Writ Proclamation Posted Enumeration Commences	
10 - Monday*	**NOMINATION DAY**	**10:00 a.m. - 2:00 p.m.**
	Mail-in Ballot Papers Distributed Special Ballots Distributed	
13 - Thursday	Enumeration Ends; Lists at Returning Office	
16 – Sunday	Distribution of Special Ballots	
17 – Monday	Lists to Candidates and Registered Political Parties	
18 - Tuesday	**REVISION**	**9:00 a.m. - 9:00 p.m.**
19 - Wednesday	**REVISION**	**9:00 a.m. - 9:00 p.m.**
23 - Sunday	**ADVANCE POLL**	**2:00 p.m. - 8:00 p.m.**
24 - Monday	**ADVANCE POLL**	**2:00 p.m. - 8:00 p.m.**
28 - Friday	**SPECIAL REVISION**	**4:00 p.m. - 9:00 p.m.**
31 - Monday*	**POLLING DAY**	**8:00 a.m. - 8:00 p.m.**
33 - Wednesday	**OFFICIAL ADDITION (1st possible day)**	**10:00 a.m.**
38 - Monday	**RETURN TO THE WRIT (1st possible day)**	**10:00 a.m.**

* If the Monday for nomination day or polling day is a statutory holiday, nomination day or polling day is changed to the following Tuesday.

REVISED ELECTION PERIOD

DAY	ACTIVITY	TIME
0 - Friday	**Lists to Registered Political Parties** Issue of the Writ Proclamation Posted	
4 – Tuesday	**Names Added to Lists at Returning Offices**	**RO Hours**
10 - Monday*	**NOMINATION DAY** **Lists to Candidates** Mail-in Ballot Papers Distributed Special Ballots Distributed	**10:00 a.m. - 2:00 p.m.**
14 - Friday	**Additions of Names at RO Ends**	
16 – Sunday	**Names Added to Candidates and Registered Political Parties**	
18 - Tuesday	**REVISION**	**9:00 a.m. - 9:00 p.m.**
19 - Wednesday	**REVISION**	**9:00 a.m. - 9:00 p.m.**
23 - Sunday	**ADVANCE POLL**	**2:00 p.m. - 8:00 p.m.**
24 - Monday	**ADVANCE POLL**	**2:00 p.m. - 8:00 p.m.**
28 - Friday	**SPECIAL REVISION**	**4:00 p.m. - 9:00 p.m.**
31 - Monday*	**POLLING DAY**	**8:00 a.m. - 8:00 p.m.**
33 - Wednesday	**OFFICIAL ADDITION (1st possible day)**	**10:00 a.m.**
38 - Monday	**RETURN TO THE WRIT (1st possible day)**	**10:00 a.m.**

* If the Monday for nomination day or polling day is a statutory holiday, nomination day or polling day is changed to the following Tuesday.

Appendix III

SAMPLE DECLARATION OF QUALIFICATION FOR AN ELECTOR WHO IS BEING SWORN IN

Electoral District _____

Polling division number _____

I (name)

of (location address) and (mailing address, if different)

declare that I am:

- 18 years of age or older and my date of birth is (yymmdd)
- a Canadian citizen,
- a resident of Yukon since (date residence established)
- a resident in the above-mentioned polling division and electoral district as of (date of the close of revision), and
- my name does not appear on any other list of electors prepared for this election.

(signature of elector being sworn in)

Declared before me at (place), this (no.) (day) of (month), (year)

(signature of designated election official)

SAMPLE DECLARATION OF A PERSON VOUCHING FOR

AN ELECTOR ON POLLING DAY

Electoral District _____

Polling division number _____

I, (name)

of (address on the list of electors for the above-mentioned electoral district and polling division)

declare that

(name of elector being sworn in)

of (location, and mailing address, if different)

a) is 18 years of age on polling day,

b) is a Canadian citizen on polling day,

c) has been resident in Yukon since (date of residency), and

d) has been resident in this electoral district since (date of the close of revision)

and is therefore qualified to vote in this polling division.

(signature of person vouching)

Declared before me at (place) this (no.) day of (month) (year).

(signature of designated election official)

Appendix IV

EXAMPLES OF PROOF OF IDENTIFICATION AND LOCATION OF RESIDENCE

Government-issue Identification

- Yukon Driver's License
- Yukon Health Care Card
- Motor Vehicle Registration
- Hunting or Fishing License

Other

- Proof of Motor Vehicle Liability Insurance (pink slip)
- Utility Bill (Yukon Electrical, telephone/cable/internet supplier, fuel supplier e.g.)
- Election Officer, who swears in an elector, has personal knowledge of the elector's name and location address (an elector to vouch for this person is still required; the election officer is only the proof of identification and residence)

REGULATED FORMS

Form / Formulaire 1

WRIT OF ELECTION — *BREF D'ÉLECTION*

YUKON, CANADA

To: — *Destinataire :*

of — *de*

Yukon — *Yukon*

Greeting — *Salut*

You are hereby given notice of the time and place of an election to be held according to law of a member to represent the Yukon Legislative Assembly for the Electoral District of

Nous vous donnons avis par la présente du moment et du lieu de l'élection d'un député à l'Assemblée législative du Yukon, qui sera tenue, selon la loi, pour la circonscription de

_____

and I/we do require a nomination of candidates at such election to be held on

et je prescris la présentation des candidats et des candidates à cette élection le

_____

and that in the event of a poll being granted you do cause a poll to be taken on

et, s'il est fait droit à la demande, de faire procéder au scrutin le

_____

and do return the name of the member so elected to be certified to the Chief Electoral Officer as by law directed as soon as possible and no later than this

et de faire rapport du nom du député ainsi élu, qui sera certifié par le directeur général des élections général des élections, comme le prescrit la loi, aussitôt que possible et au plus tard le

_____

DATED at the City of Whitehorse, Yukon this _____ day of _____ A.D. _____

FAIT dans la cité de Whitehorse (Yukon), ce _____ jour de _____ de l'an _____

_____

[illegible]

ENDORSEMENT — *ATTESTATION*

Received on the _____ day of _____ A.D. _____

Reçu le _____ jour de _____ de l'an _____

_____

[illegible]

By Authority of the Chief Electoral Officer of the Yukon

Avec l'autorisation du directeur général des élections général des élections du Yukon

Form / Formule 2

PROCLAMATION

ELECTIONS YUKON

PROCLAMATION

Electoral District
Circonscription de _____

FURSUANT to a Writ of Election dated

Date

I am ordered to cause an election to be held according to the Elections Act to choose a member to serve in the Yukon Legislative Assembly for the electoral district and I give public notice

Electoral district name

That I am now prepared to receive nominations at

Name of place of nomination

from 10:00 a.m. until 2:00 p.m., after which no further nominations of candidates will be received,

AND that if a poll is required and granted, a poll will be held on

Date of election day

from 8:00 a.m. to 8:00 p.m.

AND an advance poll will be held on Sunday and Monday,

Date of advance poll

and / et

from 2:00 p.m. to 8:00 p.m.

AND that a description of the boundaries of the polling divisions in the electoral district and the location of the polling places are in a document posted with this proclamation,

AND if a poll is held, that at

Name of each polling place

at 10:00 a.m. each of the said days, and up the returns required in the statements of the poll to be duly taken and for the completion, and declaring the name of the candidate who has obtained the largest number of ballots, and of

Date, time, place and name of returning officer for the declaration of the results

declare the result of the election.

Electoral officer's name

AND that the lists of electors will be prepared and revised in accordance with the Elections Act,

AND that nominations of the polling divisions will take place at

Name of place of nomination

from 9:00 a.m. to 5:00 p.m. on Tuesday and Wednesday,

Dates

and / et

AND that additions to the official list of electors will take place at

Name of place

from 4:00 p.m. to 9:00 p.m. on Friday

Date

AND that the Chief Electoral Officer has appointed

Name of returning officer

as Returning Officer(s) for this electoral district,

AND that I have authorized my use for the cost of the election at

Name of place of nomination, office where ballots are to be issued, place of advance poll, place where ballots are to be counted

OR words of persons are required to take notice.

Given under my hand at
Donné sous mon seing à _____ this / le _____ day of / jour de _____ year / année

_____
Returning Officer / Directeur du scrutin

By Authority of the Chief Electoral Officer of the Yukon
Avec l'autorisation du directeur général de la direction générale des élections du Yukon

NOMINATION PAPER

WE, the undersigned electors of the Electoral District of

Electoral District _____

nominate

Name and address of candidate _____

_____

as a

Political affiliation _____

candidate at the election of a member to represent the said electoral district in the Yukon Legislative Assembly.

Name to be used on ballot paper (Note 6) _____

Print name	**Print address**	**Signature**	**Initials of witness**

Print name	Print address	Signature	Initials of witness

Signed by the above electors who stated before one of the witness(es) listed below that each was a qualified elector in the the Electoral District of

_____

Witnesses	Print name	Print address

Note: Additional pages with names of electors nominating the candidate can be attached to the nomination paper.

Consent of candidate and declaration of eligibility

I, the said

Name of candidate _____

give consent to the nomination and declare that I am eligible, subject to any statement made, as a candidate at the election pursuant to the **Elections Act**.

_____
SIGNATURE OF CANDIDATE

Declared before me at _____, the _____ day of _____, year _____.

_____
JUSTICE OF THE PEACE, NOTARY PUBLIC,
RETURNING OFFICER, ASSISTANT RETURNING OFFICER, OR A PEACE OFFICER

Appointment and consent of official agent

I,

Name of candidate _____

hereby appoint

Name and address of official agent _____

_____

to be my official agent at this election.

_____
SIGNATURE OF CANDIDATE

I, the said

Name of official agent _____

declare that I agree to be appointed as an official agent at this election pursuant to the **Elections Act.**

_____
SIGNATURE OF OFFICIAL AGENT

Declared before me at _____, the _____ day of _____, year _____.

_____
JUSTICE OF THE PEACE, NOTARY PUBLIC,
RETURNING OFFICER, ASSISTANT RETURNING OFFICER, OR A PEACE OFFICER

Address for the service of papers

The location and a mailing address for the service of process, notices and documents under the **Elections Act** for

Name of candidate _____

Location address _____

Mailing address _____

0001

0001

ELECTIONS
YUKON

Electoral District of Copperbelt
Circonscription de Copperbelt

YUKON

October 10, 2006
le 10 octobre 2006

Elections Act
Loi sur les élections

Returning Officer
Directeur du scrutin

Whitehorse
Yukon Territory
Canada Y1A

David Hedmann
Yukon New Democratic Party
Nouveau parti démocratique du Yukon
Arthur Mitchell
Yukon Liberal Party • Parti libéral du Yukon
Russ Hobbis
Yukon Party • Parti du Yukon

Form / *Formulaire* 43

RETURN TO THE WRIT AFTER POLL

ELECTIONS YUKON

RAPPORT DU BREF D'ÉLECTION APRÈS LE SCRUTIN

Electoral District
Circonscription de _____

I, returning officer for the above-named electoral district, do hereby certify that the member duly elected for the said electoral district, in pursuance of the within writ, as having received the largest number of ballots lawfully cast, is

Je, directeur/directrice du scrutin de la circonscription susmentionnée, certifie par les présentes que la personne dûment élue dans cette circonscription, conformément au présent rapport, pour avoir reçu le plus grand nombre de suffrages légalement exprimés, est

Name and address of the elected candidate
Nom et adresse de la personne élue

_____

_____

_____

Certified at _____ this _____ day of _____ year _____
Fait à _____, *ce* _____ *jour de/d'* _____ *année*

_____
(SIGNATURE)
(SIGNATURE)

By Authority of the Chief Electoral Officer of the Yukon / *Avec l'autorisation du directeur général/la directrice générale des élections du Yukon*

OFFENCES PROVISIONS, OTHER JURISDICTIONS

The *Election Act* (British Columbia) has worded its legislation so that more of the provisions would be interpreted as strict liability offences. In particular, the Act provides that an individual is not guilty of any of the offences under the Act if they show that they have exercised due diligence, which is one of the available defenses of a strict liability offence.

The *Canada Elections Act* explicitly labels its offences as either strict liability offences or offences requiring intent.

The majority of the Acts distinguish between general offences, illegal practices and corrupt practices. However, the general offences still contain language (similar to the *Elections Act* (Yukon) that could be interpreted as *mens rea* offences, and require statutory interpretation to determine whether they would be considered strict liability or *mens rea* offences.

A brief review of Canadian election legislation shows that less serious offences are most commonly strict liability offences, for example, removal of posted documents and notices, interference, election advertising and promotion, prohibited displays, devices on polling day.

Election Act, British Columbia

At the beginning of the offence provisions, the Act specifies that the defense of due diligence is open as a defense to any of the offences under the Act and not just for offences of election officials (as is the case under Northwest Territories, Nunavut and Newfoundland and Labrador legislation).

"s.254 An individual or organization is not guilty of an offence under this Act if the individual or organization exercised due diligence to prevent the commission of the offence."

This implies that the offences provisions are strict liability offences. The wording of the legislation avoids language such as "knowingly", "corruptly" or "fraudulently", for example.

Canada Elections Act

The Act has classified, in its headings, that offence provisions are either "strict liability offences" or "offences requiring intent" and also distinguishes illegal and corrupt practices, which suggests *mens rea* offences.

Election Act, Alberta

The Act divides its provisions into two categories, general offences and corrupt practices. The general offences, for the most part, could be interpreted as strict liability offences. The part of the Act concerning corrupt practices uses language that suggests *mens rea* offences. The fact that offences are separated into two distinct categories suggests that corrupt practices are more serious in nature and require the Crown to meet a higher standard of proof.

Election Act, Saskatchewan

This Act also distinguishes between election offences and corrupt practices.

Elections Act, Manitoba

Offences classified as voting offences are a combination of strict liability offences and *mens rea* offences. Offences concerning bribery and intimidation require proof of intent.

Election Act, Ontario

S.97.1 of this Act states:

"If, when a person is convicted of an offence under section 90, 94, 95, 96 or 96.1, the presiding judge finds that the offence was committed knowingly, the person is also guilty of a corrupt practice and, in addition to any other penalty, is liable to imprisonment of a term not more that six months."

This section suggests that there are two categories in which a person can be found guilty of these offences. First, as a strict liability offence, which does not require proof that the accused intended to commit the offence. If the Crown can prove a *mens rea* offence, the accused will be found to be guilty of a corrupt offence which is accompanied by additional penalties.

Election Act, Quebec

This Act distinguishes certain sections as corrupt practices. In certain circumstances, listed in the Act, a judge may determine that an error was made in good faith and is not a corrupt practice.